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ATTORNEY FOR APPELLANT:

JAMES A. EDGAR
J. Edgar Law Offices, PC
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

NICOLE M. SCHUSTER
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

| | | |
|----------------------|---|-----------------------|
| ROBERT ROBERTS, |) | |
| |) | |
| Appellant-Defendant, |) | |
| |) | |
| vs. |) | No. 49A02-0608-CR-626 |
| |) | |
| STATE OF INDIANA, |) | |
| |) | |
| Appellee-Plaintiff. |) | |

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Danielle Gaughan, Commissioner
Cause No. 49G17-0605-CM-90925

April 20, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

Robert Roberts appeals his conviction in a bench trial for domestic battery, as a class A misdemeanor.¹

We affirm.

ISSUE

Whether the State presented sufficient evidence to convict Roberts.

FACTS

On May 15, 2006, Roberts and Cynthia Ann Meadows had been living together for approximately seven years, along with their six-year-old son. On the night of May 15th, Meadows and their son were watching television in the living room, when Meadows started to fall asleep. Roberts came to the doorway and told Meadows that she “couldn’t lay there and sleep.” (Tr. 9). Meadows and Roberts began arguing. When Roberts began to “yell and scream,” Meadows sent their son upstairs. Roberts then “smacked [Meadows’] face,” which “hurt and kind of stung a little.” (Tr. 10). Roberts also grabbed Meadows’ face, putting “his hand over [her] mouth” and “squeezing” her cheeks, which also hurt. (Tr. 11).

After Roberts went into another room, Meadows telephoned her mother for assistance. Roberts, however, disconnected the telephone while Meadows was speaking with her mother. When Meadows’ mother arrived at the residence, Roberts went outside,

¹ Ind. Code § 35-42-2-1.3.

taking the telephone with him. Once Roberts left the residence, Meadows' mother telephoned police.

Jamon Davis, a deputy with the Marion County Sheriff's Department, arrived at the residence after receiving a report of a domestic disturbance. Deputy Davis noticed that Meadows "had red marks on the side of her face." (Tr. 19). The red marks "appeared to be scratches," and Deputy Davis noted that they were on the left side of Meadows' face. (Tr. 20).

On May 23, 2006, the State charged Roberts with domestic battery, battery and interference with reporting a crime. The trial court held a bench trial on July 14, 2006, during which Roberts denied striking Meadows. The trial court found Roberts guilty of domestic battery and not guilty of interference with reporting a crime. As to the battery charge, the trial court "vacat[ed] that conviction because it's the same thing" (Tr. 44). The trial court then sentenced Roberts to 180 days.

DECISION

Roberts asserts that the evidence was insufficient to sustain his conviction for domestic battery. To convict Roberts of domestic battery, the State was required to prove that he knowingly or intentionally touched Meadows, a person that he was living with as if she were his spouse, in a rude, insolent, or angry manner that resulted in bodily injury.

Our standard of review for sufficiency of the evidence is well settled. We will neither reweigh the evidence nor judge the credibility of witnesses. *Snyder v. State*, 655 N.E.2d 1238, 1240 (Ind. Ct. App. 1995). We examine only the evidence most favorable to the judgment along with all reasonable inferences to be drawn therefrom, and, if there

is substantial evidence of probative value to support the conviction, it will not be set aside. *Id.*

Roberts first argues that the trial court erroneously convicted him because 1) he testified that he did not strike Meadows; and 2) the testimony of Meadows and Deputy Davis conflicted. The record shows that Roberts testified that he did not touch Meadows. The record also shows that Meadows testified that she “believe[d] it was [her] right side,” which Roberts smacked, but was “not really certain.” (Tr. 10). Deputy Davis testified that he observed red marks on the left side of Meadows’ face.

We find that the evidence was sufficient to convict Roberts of domestic battery, where the State presented evidence that Roberts slapped and grabbed Meadows’ face. Roberts’ claim to the contrary is merely an invitation to judge the credibility of the witnesses and to reweigh the evidence, which we will not do.

Robert next argues that his conviction should not stand where the trial court “question[ed] . . . the weight of the evidence[.]” Roberts’ Br. 4. In support of this argument, Roberts cites to the following statement made by the trial court: “Sir, it’s about the weight of the evidence, you know, I’m not saying, I mean I could be wrong there was enough evidence presented today to convict you of Domestic Battery as a class A misdemeanor” (Tr. 44).

We find that the trial court’s statement merely reflects that it weighed the evidence and found it sufficient to support Roberts’ conviction. We will not set aside the trial court’s determination as the probative evidence supports it.

Affirmed.

BAKER, C.J., and ROBB, J., concur.